

REMARKS

In the Office Action, the Examiner indicated that Claims 1-5, 7-17, 19-26, and 28-30 were rejected under 35 U.S.C. 102(e) as being anticipated by Mukai (U.S. Pub. 20020178382). In addition, Claims 6, 18, and 27 were rejected under 35 U.S.C. 103 as being unpatentable over Mukai.

Claims 1-3, 5-13, 15-16, 18-25, and 27-35 are pending. Claims 1, 10, and 22 are the independent claims. Claims 1, 10, and 22 are not anticipated by, and are patentable over Mukai. Paragraph 0250 of Mukai states:

The security administration server S collects the communication packets flowing in the LAN by the following methods. For example, regarding communication packets transmitted and received by the device to be monitored C connected to a same hub as the security administration server S, they may be directly obtained by the server S itself and the server S directly obtains them (however, excluding a case where the hub which the security administration server S is connected to has an intelligent function like as a switching hub). On the other hand, when the server S itself is connected to a switching hub, or regarding communication packets transmitted and received by a device to be monitored C which is connected to a hub different from the hub the server S is connected to, the server S itself cannot directly obtain them. Regarding the communications packets, for example, a program to obtain the communications packets (communications monitor software) is operated at the device to be monitored C side, and with an effect from this program, the communication packets accumulated and stored in the device to be monitored C are concentrated to the security administration server S at a suitable timing via the LAN, to be obtained.

Thus, Mukai requires the security administration server S to be connected to the same hub as the device to be monitored C in a hub network. (See also Mukai, FIG. 10). In switched networks, Mukai requires communication monitor software operated at the device to be monitored C side where communication packets are accumulated and stored in the device to be monitored C side and sent to the security administration server S. Thus, Mukai is limited to collecting communication packets only from a predetermined set of devices to be monitored. The communication monitor software must be **installed on the devices to be monitored**. Thus, a **predetermined list of devices to be monitored is required**. In

addition, the list of devices to be monitored requires initial compilation and maintenance for Mukai to function.

In contrast, Applicant captures LAN traffic from a **primary network switch**.

Referring to FIG. 1, Applicant states on page 7, lines 9-12 of the specification:

In one embodiment, NDS 110 is a one rack unit (1U) box with a power plug. In such an embodiment, NDS 110 has two 100 Mbps network connection to primary switch 106. As shown in FIG. 1, one link is a mirrored uplink, via one NDS 110 port to collect data from LAN 102.

In addition, Applicant **does not require a list of devices to be monitored**. Applicant states on page 5, lines 5-11, a process for identifying users of networked computers that does not require a list of devices to be monitored. Rather, Applicant captures traffic by installing a discovery system apparatus on a primary switch:

In an embodiment, the present invention is provided to an enterprise as a solution for mapping Internet Protocol (IP) addresses to an organization's personnel using directory data and the contents of network traffic. First, the enterprise's local area network (e.g., Ethernet, FDDI or the like) traffic is captured and analyzed by installing a name discovery system apparatus (i.e., "NDS" hardware) on the primary switch of the enterprise's local area network (LAN). The captured data is cross-correlated with list data to map IP addresses to end users.

As stated above, Mukai monitors at the devices, and thus Mukai can only collect communications packets from the subset of devices that have had the communication monitoring software installed in advance. Devices without the communication monitoring software operate undetected and unmonitored. In contrast, Applicant collects communication packets from a primary network switch. Applicant does not require the installation of communication monitoring software on the devices to be monitored. Claim 1 thus includes language stating that traffic is monitored through a primary switch.

Furthermore, Mukai requires a manually entered and maintained list of devices to be monitored. Mukai is thus deficient when an entity does not keep a complete and updated list of devices, which is a very common occurrence. In contrast, Applicant does not require a

predetermined list of devices to be monitored, and thus does not need to maintain such a list. Applicant is able to discover this information from the network traffic at the primary switch. Thus, for example, if Alan is using a server that is not on the list of devices to be monitored, Applicant would still be able to find out which computer Alan was using at a specified time, but Mukai would not.

For the above reasons, independent Claims 1, 10, and 22 are allowable. The remaining claims depend, either directly or indirectly on Claims 1, 10, or 22, and are thus also allowable. New claims 31, 32, and 33 are supported by, for example, page 13, line 11 to page 14, line 2; page 14, lines 8-21; and page 6, lines 1-6. New Claims 34 and 35 are similar to Claim 9 and are patentable for the same reasons.

Applicant notes that the Examiner also rejected Claims 6, 18, and 27 for obviousness reasons. Applicant notes that because Claims 6, 18, and 27 depend on amended Claims 1, 10, or 22, these claims are patentable.

Applicant believes that a full and complete reply has now been made to the Office Action and, as such, the present application is in condition for allowance. The Examiner is invited to contact the undersigned by telephone should the Examiner believe that personal communication will expedite prosecution of this application.

Respectfully submitted,

DLA PIPER RUDNICK GRAY CARY U.S. LLP



Dale Lazar
Registration No. 28,872

Lisa K. Norton
Registration No. 44,977

PO Box 9271
Reston, VA 20195-3171
(703) 773-4149 Telephone
(703) 773-5064 Facsimile